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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,190	01/23/2004	Peter Fyler Lynch	9495	8071

27752 7590 04/03/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
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QUINN, COLLEEN M

ART UNIT	PAPER NUMBER
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3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,190	<b>Applicant(s)</b> LYNCH, PETER FYLER	
	<b>Examiner</b> Colleen M. Quinn	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-13,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-13,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4-13, 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 14-16, it is unclear how the top support member has a portion that extends over substantially the entire length of itself. The language used to describe the non-linear portion of the top support member is awkward and does not clearly describe the invention. The applicant may consider describing the top support member to have a --non-linear portion for substantially *the* entire length of the top support member-- rather than the awkward language currently used to describe the non-linear portion.

Regarding claim 1, line 17, there is no antecedent basis for "said top member". It appears the applicant intends to recite --said top *support* member-- given that in the previous lines of claim 1, and the dependent claims refer to "said top support member".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ingelson (US 2,747,959). Ingelson discloses a shelf display apparatus for storing packages on a shelf (column1, lines 15-19) comprising first and second vertical support members (unnumbered vertical ends of 2), each having a lower end (3,4) connectable to a shelf (C) in a first plane (figure 1), a top support member (unnumbered top edge of 2) rigidly connected directly between the two vertical support members, and in a plane parallel to the first plane (figures 1, 3 & 4), wherein the top support member has a continuous non-linear curved portion (figure 4) extending substantially the entire length of the top support member, and there is a substantially solid wall (2) interdisposed between the two vertical support members.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-13, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingelson as applied to claims 1 and 4 above, and further in view of Heroy (US 3,669,278). Ingelson fails to disclose fastening mechanisms comprising u-shaped brackets insertable into a portion of a shelf.

Heroy teaches a shelf display apparatus comprising first and second vertical support members (vertical end members of 12 and 13), each support member having a lower end (15) to which fastening mechanisms (16) are attached, wherein the fastening mechanisms include a bottom plate (20) connectable to a shelf (10), the fastening mechanisms including u-shaped brackets (24) insertable to the shelf (figure 3), engaging members (26) insertable through receiving areas (11) providing a secure connection (column 1, lines 55-64) to a shelf configured to provide a display for product information (column 1, lines 5-6 and 53-55).

Therefore, it would have been obvious to one of ordinary skill in the art, to provide the shelf display apparatus of Ingelson with the fastening mechanisms taught by Heroy, in order to provide a more secure connection between the apparatus and the shelf.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 4-13, 17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morrisson (US 6,389,991), Niece (US 4,023,682) and Pfeifer (US 4,426,009) all teach key features of the applicant claimed invention, namely, shelf display apparatuses that include features such as u-shaped brackets and non-linear supporting walls intended for the display of non-linear objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571)272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic


Application/Control Number: 10/764,190

Page 6

Art Unit: 3634

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ  
3/31/07

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
**Technology Center 3600**